



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2013-0071]

RIN 1625-AA08

Special Local Regulations; Third Annual Space Coast Super Boat Grand Prix, Atlantic Ocean; Cocoa Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the waters of the Atlantic Ocean east of Cocoa Beach, Florida during the Space Coast Super Boat Grand Prix, a series of high-speed boat races. The event is scheduled to take place on Saturday and Sunday, May 18-19, 2013, and approximately 30 high-speed race boats are anticipated to participate in the races, and approximately 200 spectator vessels are expected to attend the event. This special local regulation is necessary to provide for the safety of life on navigable waters of the United States during the races.

DATES: This rule is effective from 9 a.m. on May 18, 2013, until 5:30 p.m. on May 19, 2013. This rule will be

enforced from 9 a.m. until 5:30 p.m. daily on May 18, 2013, and May 19, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2013-0071. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "Keyword" box, and then click "Search." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or e-mail Lieutenant Commander Robert Butts, Sector Jacksonville Office of Waterways Management, Coast Guard; telephone (904) 564-7563, e-mail Robert.S.Butts@uscg.mil. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable to do so. The Coast Guard did not receive information regarding this race with sufficient time to administratively process both an NPRM and a final rule.

Under 5 U.S.C. 553(d)(3), for the reasons stated above, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. The Coast Guard did not receive the information for this event until it was too late to allow for a 30-day delayed effective date. Additionally, this event involves approximately 30

participant vessels and 200 spectator vessels. Due to the inherent dangers involved with a high-speed race and the number of vessels involved, it is in the best interest of the public to have a regulation in place and to not delay its effective date.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

On Saturday and Sunday, May 18-19, 2013, Super Boat International Productions, Inc. will host the Space Coast Super Boat Grand Prix, a series of high-speed boat races. The event will be held on the waters of the Atlantic Ocean east of Cocoa Beach, Florida. Approximately 30 high-speed power boats are anticipated to participate in the races. It is anticipated that at least 200 spectator vessels will be present during the event.

The purpose of the rule is to ensure safety of life on navigable waters of the United States during the Space Coast Super Boat Grand Prix.

C. Discussion of the Final Rule

The special local regulation will encompass certain waters of the Atlantic Ocean east of Cocoa Beach, Florida. The special local regulation will be enforced from 9 a.m. until 5:30 p.m., May 18-19, 2013. The special local regulation will consist of the following two areas: (1) a race area, where all persons and vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting, anchoring, or remaining; and (2) a buffer zone around the race area, where all persons and vessels, except those persons and vessels enforcing the buffer zone, are prohibited from entering, transiting, anchoring, or remaining. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the race area or buffer zone by contacting the Captain of the Port Jacksonville by telephone at (904) 564-7513, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the race area or buffer zone is granted by the Captain of the Port Jacksonville or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Jacksonville or a designated

representative. The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) the special local regulation will be enforced for only 17 hours over the course of two days; (2) although non-participant persons and vessels will not be able to enter, transit through, anchor in, or remain within the race area or buffer zone

without authorization from the Captain of the Port Jacksonville or a designated representative, they may operate in the surrounding area during the enforcement period; (3) non-participant persons and vessels may still enter, transit through, anchor in, or remain within the race area or buffer zone if authorized by the Captain of the Port Jacksonville or a designated representative; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of

which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Atlantic Ocean encompassed within the special local regulation from 9 a.m. until 5:30 p.m. on May 18-19, 2013.

For the reasons discussed in the Executive Order 12866 and Executive Order 13563 section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each

agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of

people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) and 35(b) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist and a categorical exclusion determination supporting this determination are not required for this rule

List of Subjects in 33 CFR Part 100

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100-- SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233

2. Add § 100.35T07-0071 to read as follows:

§ 100.35T07-0071 Special Local Regulations; Space Coast Super Boat Grand Prix, Atlantic Ocean; Cocoa Beach, FL.

(a) Regulated areas. The following regulated areas are established as a special local regulation. All coordinates are North American Datum 1983.

(1) Race area. All waters of the Atlantic Ocean located east of Cocoa Beach encompassed within an imaginary line connecting the following points: starting at Point 1 in position 28°22'10"N, 80°35'51"W; thence east to Point 2 in position 28°22'10"N, 80°35'47"W; thence south to Point 3 in position 28°19'54"N, 80°36'02"W; thence west to Point 4 in position 28°19'54"N, 80°36'08"W; thence north back to origin. Only authorized race participants may enter the race area.

(2) Buffer zone. All waters of the Atlantic Ocean located east of Cocoa Beach, excluding the race area, and

encompassed within an imaginary line connecting the following points: starting at Point 1 in position 28°22'16"N, 80°36'04"W; thence east to Point 2 in position 28°22'15"N, 80°35'39"W; thence south to Point 3 in position 28°19'47"N, 80°35'55"W; thence west to Point 4 in position 28°19'47"N, 80°36'22"W; thence north back to origin. Only vessels enforcing the buffer zone and authorized race participants transiting to the race area may enter the buffer zone.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Jacksonville in the enforcement of the regulated areas.

(c) Regulations. (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within Race Area unless an authorized race participant.

(2) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within Buffer Zone except for those vessels enforcing the buffer zone or authorized race participants transiting to

the reace area.

(3) Vessels that are neither participating in the race or enforcing the buffer zone are prohibited from entering the regulated areas unless authorized by the Captain of the Port Jacksonville or a designated representative.

(4) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas may contact the Captain of the Port Jacksonville by telephone at (904) 564-7513, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated areas is granted by the Captain of the Port Jacksonville or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Jacksonville or a designated representative.

(5) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Enforcement date. This rule will be enforced from 9 a.m. until 5:30 p.m. on May 18-19, 2013.

Dated: April 18, 2013

T. G. Allan, JR.
Captain, U.S. Coast Guard
Captain of the Port Jacksonville

[FR Doc. 2013-10226 Filed 05/01/2013 at 8:45 am;

Publication Date: 05/02/2013]